

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY REGULATIONS
Title 16, Division 39, California Code of Regulations

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Article 1. General Provisions

§ 4100. Definitions

In addition to the definitions found in Business and Professions Code section 2570.2, the following terms are used and defined herein:

- (a) "Certificate" means the authority granted by the board to a person to offer occupational therapy services as an occupational therapy assistant under the appropriate supervision of an occupational therapist.
- (b) "Code" means the Business and Professions Code.
- (c) "Holder" means the person to whom a license, certificate or limited permit has been issued by the board.
- (d) "License" means the authority granted by the board to a person to offer occupational therapy services as an occupational therapist.
- (e) "Limited permit" means the authority granted by the board to a person to offer occupational therapy services under the direction and appropriate supervision of an occupational therapist.
- (f) "The Occupational Therapy Practice Act" or "Act" means Chapter 5.6 of Division 2, of the Business and Professions Code.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570, 2570.2 and 2570.5, Business and Professions Code.

§ 4101. Delegation of Certain Functions

The power and discretion conferred by law upon the Board to receive and file accusations and statements of issues; issue notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing and perform other functions necessary to the dispatch of the business of the Board in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of the Government Code are hereby delegated to and conferred upon the executive officer of the Board.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 480, 2570.1, 2570.6, 2570.17, 2570.19, 2570.20, and 2570.23, Business and Professions Code and Section 11500 et seq., Government Code.

§ 4102. Filing of Addresses

(a) Each person licensed, certified or issued a limited permit by the board, shall report to the board every change of residence address within 30 days after the change, giving both the old and new addresses. In addition to the residence address, the person may provide the board with an alternate address of record. If an alternate address is the person's address of record, he or she may request, in writing, that the residence address not be disclosed to the public.

(b) Each person licensed, certified or issued a limited permit by the board shall report to the board every change of name within 30 days after the change, giving both the old and new names.

(c) This section refers to every person who holds an active, inactive, unexpired, suspended license or certificate, or a limited permit.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 136, 2570 (original), 2570.3, 2570.5, 2570.8, 2570.9, 2570.10, and 2570.11, Business and Professions Code.

Article 2. Applications

§ 4110. Form

Application for a license, certificate, or limited permit shall be made upon the form prescribed by the board, accompanied by the appropriate fees, and such evidence, statements, or documents as therein required.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 30, 144, 850, 851, 2570.5, 2570.6, 2570.7, 2570.8, 2570.9, 2570.14, and 2570.16, Business and Professions Code.

§ 4111. Place of Filing

Applications shall be filed with the board's principal office.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Section 2570.5, 2570.6, 2570.7, 2570.8, 2570.9, 2570.14, and 2570.16, Business and Professions Code.

§ 4112. Review of Application

Within thirty (30) days after receipt of an application for a license, certificate, or limited permit, the board shall inform the applicant, in writing, whether the application is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 144, 2570.5, 2570.6, 2570.7, 2570.8, 2570.9, 2570.14, and 2570.16, Business and Professions Code and Section 15376, Government Code.

§ 4114. Abandonment of Application

- (a) An application for a license or certificate shall be deemed abandoned and the application fee forfeited when:
 - (1) The applicant fails to complete the application within two years after it is originally received by the board.
 - (2) The applicant fails to submit the Initial license or certification fee within sixty (60) days after the date of notification of eligibility by the board.
- (b) An application for a limited permit shall be deemed abandoned and the application fee forfeited if the applicant fails to complete the application or submit the required fee within sixty (60) days after it is originally received by the board.
- (c) An application submitted subsequent to the abandonment of a previous application shall be treated as a new application.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570.5, 2570.6, 2570.7, 2570.8, 2570.9, 2570.14, and 2570.16, Business and Professions Code.

Article 3. License, Certificate, Limited Permit, Inactive Status

§ 4120. Renewal of License or Certificate - Forms

- (a) The term of a license or certificate shall be two years.
 - (1) Unless renewed, a license or certificate issued by the board shall expire at 12 midnight on the last day of the holder's birth month during an odd year if the licensee was born in an odd year or during an even year, if the licensee was born in an even year. The initial license fee shall be prorated from the month of issuance based on the holder's birth month and birth year.
 - (2) To renew an unexpired license or certificate, the holder shall, before the time at which the license or certificate would otherwise expire, apply for renewal and pay the renewal fee.
 - (3) The renewal application shall include a statement specifying whether the licensee or certificate holder was convicted of a crime or disciplined by another public agency during the preceding renewal period, whether the continuing competency requirements have been met if renewing in an active status, and that the licensee's or certificate holder's representations on the renewal form are true, correct, and contain no material omissions of fact, signed under penalty of perjury.
 - (4) An inactive license or certificate may be renewed.
- (b) A limited permit cannot be renewed.

Note: Authority cited: Sections 134, 152.6, 462, and 2570.20, Business and Professions Code. Reference: Sections 134, 152.6, 462, 2570.5, 2570.9, 2570.10, and 2570.11, Business and Professions Code.

§ 4121. Renewal of Expired License or Certificate; Application; Fees; Effective Date of Renewal

Except as otherwise provide in the Code, a license or certificate which has expired may be renewed at any time within five years after its expiration on filing of an application for renewal on a form prescribed by the board, and payment of all accrued and unpaid renewal fees. If a license or certificate is renewed after its expiration, the licensee or certificate holder, as a condition precedent to renewal, shall also pay a delinquency fee. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license or certificate shall continue in effect through the expiration date provided in section 4120 above which next occurs after the effective date of renewal, when it shall expire if it is not renewed.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 163.5, 2570.9, and 2570.10, Business and Professions Code.

§ 4122. Inactive Status

Upon written request, the board may grant inactive status to a license or certificate holder under the following conditions:

- (a) At the time of application for inactive status, the holder's license or certificate shall be current and not suspended, revoked, or otherwise punitively restricted by the board.
- (b) The holder of an inactive license or certificate shall not engage in any activity for which a license or certificate is required.
- (c) An inactive license or certificate shall be renewed during the same time period in which an active license or certificate is renewed. The holder of an inactive license or certificate need not comply with any continuing education requirement for renewal of an active license.
- (d) The renewal fee for a license or certificate in an active status shall apply also for a renewal of a license or certificate in an inactive status, unless a lesser renewal fee is specified by the board.

(e) In order for the holder of an inactive license or certificate to restore his or her license or certificate to an active status, he or she shall comply with all of the following:

(1) Pay the renewal fee.

(2) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for a single renewal period of an active license or certificate, unless a different requirement is specified by the board on a case-by-case basis.

Note: Authority cited: Sections 462, 700, 701, and 2570.20, Business and Professions Code. Reference: Sections 462, 700, 701, and 2570.11, Business and Professions Code.

§ 4123. Limited Permit

(a) To qualify for a limited permit, a person must have applied to the National Board for Certification in Occupational Therapy (NBCOT) to take the licensing examination within four (4) months of completing the education and fieldwork requirements for licensure or certification.

(1) Upon receipt from NBCOT, the applicant must forward to the Board a copy of the Authorization to Test (ATT) letter.

(2) A limited permit shall only be valid for four (4) months from the date of application with the Board or upon receipt of a failing result, whichever occurs first.

(3) The limited permit holder must immediately notify the Board of the results of the examination.

(b) If the holder of a limited permit is successful in passing the first examination, the fee for the limited permit will be applied to the initial license or certification fee.

(c) The limited permit will be cancelled, and the fee forfeited, upon notification to the Board or the limited permit holder by the test administrator that the holder failed to pass the first examination.

Note: Authority cited: Sections 2570.5 and 2570.20, Business and Professions Code. Reference: Sections 2570.5, 2570.6, 2570.7, 2570.9, 2570.16, and 2570.26, Business and Professions Code and Sections 4100, 4102, 4110, 4111, 4112, 4114, 4120, and 4130, California Code of Regulations.

Article 4. Fees

§ 4130. Fees

Fees are fixed by the board as follows:

(a) The initial license or certificate fee is \$150.

(b) The fee for a limited permit is \$75.

(c) For a license that expires on or before December 31, 2006, the annual renewal fee for a license or certificate is \$150.

(d) For a license that expires on or after January 1, 2007, the renewal fee shall be in accordance with the following schedule:

(1) For a license that expires between January 1, 2007, and December 31, 2007, a licensee with an even birth year shall renew for one year and the renewal fee shall be seventy-five dollars (\$75).

(2) For a license that expires on or after January 1, 2007, and biennially thereafter, a licensee with an odd birth year shall renew for two years and the renewal fee shall be one hundred fifty dollars (\$150).

(3) For a license that expires on or after January 1, 2008, and biennially thereafter, a licensee with an even birth year shall renew for two years and the renewal fee shall be one hundred fifty dollars (\$150).

(e) The delinquency fee is one-half of the renewal fee.

(f) The renewal fee for an inactive license or certificate is \$25.

(g) The fee for a duplicate license is \$15.

(h) The fees for fingerprint services are those charged by the California Department of Justice and the Federal Bureau of Investigation.

Note: Authority cited: Sections 122, 144, 163.5, and 2570.20, Business and Professions Code. Reference: Sections 144, 2570.5, 2570.9, 2570.10, 2570.11, and 2570.16, Business and Professions Code.

Article 5. Citations

§ 4140. Issuance of Citations

(a) The Board's executive officer, or his or her designee, is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to section 125.9 of the Business and Professions Code against occupational therapists or occupational therapy assistants who have committed any acts or omissions which are in violation of the Occupational Therapy Practice Act or any regulation adopted pursuant thereto.

(b) The Board's executive officer, or his or her designee, is authorized to issue citations containing orders of abatement, orders of correction, and/or administrative fines pursuant to section 148 of the Business and

Professions Code against unlicensed persons who have committed any acts or omissions which are in violation of the Occupational Therapy Practice Act or any regulation adopted pursuant thereto.

(c) Each citation:

- (1) shall be in writing,
 - (2) shall describe with particularity the nature of the violation, including specific reference to the provision or provisions of law determined to have been violated,
 - (3) may contain one or more of the following:
 - (A) an assessment of an administrative fine;
 - (B) an order of abatement fixing a reasonable period of time for abatement of the violation;
 - (C) an order of correction,
 - (4) shall be served on the cited person, in person, or by certified and regular mail at the address of record on file with the Board. Citations served by certified and regular mail shall be deemed "served" on the date of mailing.
 - (5) shall inform the cited person that, if he or she desires an informal conference to contest the finding of a violation, the informal conference shall be requested by written notice to the Board within 30 calendar days from service of the citation,
 - (6) shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the Board within 30 calendar days from service of the citation,
 - (7) shall inform the licensed person that failure to pay the fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the Board.
- (d) If a citation is not contested and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.
- (e) The sanction authorized under this section shall be separate from, and in addition to, any civil or criminal remedies.

Note: Authority cited: Sections 125.9, 148 and 2570.20, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

§ 4141. Assessment of Administrative Fines

(a) Where citations include an assessment of an administrative fine, the fine shall be not less than \$50 or exceed \$2,000 for each violation. Each violation shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:

(1) Class "A" violations shall not be less than \$1,001 nor more than \$2,000. Class "A" violations are violations which the executive officer, or his or her designee, has determined involve a person who, while engaged in the practice of occupational therapy, has violated a statute or regulation relating to the Occupational Therapy Practice Act. Class "A" violations are more serious in nature and may include, but are not limited to, violations which resulted in or had significant potential for patient harm and where there is no evidence that revocation or other disciplinary action is required to ensure public safety. Such violations include, but are not limited to, failing to provide direct in-sight supervision of an aide when the aide performed a client related task that resulted in harm to the patient, or failing to provide adequate supervision to an occupational therapy assistant that resulted in harm to the patient, or functioning autonomously as an occupational therapy assistant. A Class "A" violation may be issued to a person who has committed a class "B" violation who has had two or more prior, separate class "B" violations.

(2) Class "B" violations shall not be less \$501 nor more than \$1,000. Class "B" violations are violations which the executive officer, or his or her designee, has determined involve either a person who, while engaged in the practice of occupational therapy, has violated a statute or regulation relating to the practice of Occupational Therapy Practice Act. Class "B" violations are less serious in nature and may include, but are not limited to, violations which could have resulted in patient harm. Typically some degree of mitigation will exist. Such violations include, but are not limited to, failing to provide direct in-sight supervision of an aide when the aide performed a client related task that did not result in harm to a patient, or fraudulent medical billing, or supervising more occupational therapy assistants than allowed by law. A class "B" violation may be issued to a person who has committed a class "C" violation who has two or more prior, separate class "C" violations.

(3) Class "C" violations shall not be less than \$50 nor more than \$500. Class "C" violations are violations which the executive officer, or his or her designee, has determined involve a person who has violated a statute or regulation relating to the practice of occupational therapy. A class "C" violation is a minor or technical violation which is neither directly or potentially detrimental to patients nor potentially impacts their care. Such violations may include, but are not limited to, practicing without a current and active license, failing to disclose a conviction or convictions in the application process, and failing to notify the Board of any changes in the licensee's or certificate holder's address of record. A class "C" violation may also be issued to a licensee or certificate holder who fails to respond to a written request by the board for additional information relating to a renewal application.

(b) In determining the amount of an administrative fine, the executive officer, or his or her designee, shall consider the following factors:

- (1) Gravity of the violation,
- (2) History of previous violations of the same or similar conduct,
- (3) Length of time that has passed since the date of the violation,
- (4) Consequences of the violation, including potential for patient harm,
- (5) The good or bad faith exhibited by the cited individual,
- (6) Evidence that the violation was willful,
- (7) The extent to which the individual cooperated with the board's investigation,
- (8) The extent to which the individual has remediated any knowledge and/or skills deficiencies,
- (9) Any other mitigating or aggravating factors.

Note: Authority cited: Sections 125.9, 148 and 2570.20, Business and Professions Code. Reference: Sections 125.9 and 148 Business and Professions Code.

§ 4142. Appeal of Citations

(a) The cited person may, within 30 calendar days of service of the citation, submit a written request for an informal conference with the executive officer.

(b) In addition to requesting an informal conference described in subsection (a), a cited person may contest a citation, in whole or in part, by submitting a written request for an administrative hearing to the Board within 30 calendar days of service of the citation. Such hearings shall be conducted pursuant to the Administrative Procedure Act, Chapters 4.5 and 5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The request for a hearing to contest a citation is not waived if the executive officer affirms the citation at an informal conference.

(d) The executive officer, or his or her designee, shall within 30 working days from receipt of a written request for an informal conference, hold an informal conference with the cited person. The 30-day period may be extended by the executive officer for good cause. Following the informal conference, the executive officer, or his or her designee, may affirm, modify, or dismiss the citation, including any fine assessed or order of abatement issued. A written order affirming, modifying, or dismissing the original citation shall be served on the cited person within 30 calendar days from the informal conference. If the order affirms or modifies the original citation, said order shall fix a reasonable period of time for abatement of the violation or payment of the fine.

(e) If the informal conference results in the modification of the findings of violation(s), the amount of the fine or the order of abatement, the citation shall be considered modified, but not withdrawn. A cited person is entitled to a hearing to contest the modified citation if he or she filed a timely request. A cited person is not entitled to an informal conference to contest a modified citation. If a timely request for a hearing was not filed, the decision in the modified citation shall be considered final.

(f) If the citation is dismissed after the informal conference, the request for a hearing, if any, shall be deemed withdrawn.

(g) Submittal of a written request for an informal conference as provided in subsection (a) or an administrative hearing as provided in subsection (b), or both, stays the time period in which to pay the fine.

(h) If a written request for an informal conference as provided in subsection (a), or a written request for a hearing as provided in subsection (b), or both, is not submitted to the board within 30 calendar days from service of the citation, the cited person is deemed to have waived his or her right to an informal conference and/or administrative hearing.

Note: Authority cited: Sections 125.9, 148 and 2570.20, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

§ 4143. Compliance with Citations

(a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, he or she may request an extension of time within which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) Failure of an applicant to abate the violation or to pay the fine within the time allowed is a ground for denial of licensure or registration.

(c) If an informal conference or hearing is not requested, payment of the fine shall not constitute an admission of the violation charged and payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

Note: Authority cited: Sections 125.9, 148 and 2570.20, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

§ 4144. Disciplinary Guidelines

(a) In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code section 11400 et seq.), the Board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines" [December 2003] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such deviation, e.g., the presence of mitigating factors; age of the case; evidentiary problems.

(b) All probationers shall submit and cause each health care employer to submit quarterly reports to the Board. The reports shall be on forms obtained by the Board, which are hereby incorporated by reference.

Note: Authority cited: Section 2570.20 Business and Professions Code. Reference: Sections 125.6, 125.9, 475, 480, 481, 482, 490, 496, 2570.26, 2570.27, 2570.28, 2570.29, 2570.30, 2570.31, 2570.32, Business and Professions Code and Section 11425.50(e), Government Code.

Article 6. Advanced Practices

§ 4150. Definitions

For the purpose of this article:

(a) "ACOTE" means the Accreditation Council for Occupational Therapy Education.

(b) "Post professional education and training" means education and training obtained subsequent to the qualifying degree program or beyond current ACOTE standards for the qualifying degree program.

(c) "Contact hour" means fifty (50) minutes of coursework or classroom instruction.

(d) "Semester unit" means fifteen (15) contact hours.

(e) "Quarter unit" means ten (10) contact hours.

(f) "Rehabilitation of the hand, wrist, and forearm" as used in Code section 2570.2(l) refers to occupational therapy services performed as a result of surgery or injury to the hand, wrist, or forearm.

(g) "Swallowing" as used in Code section 2570.3 is the passage of food, liquid, or medication through the pharyngeal and esophageal phases of the swallowing process.

(h) "Instrumental evaluation" is the assessment of any aspect of swallowing using imaging studies that include, but are not limited to, endoscopy and videofluoroscopy.

(1) "Endoscopic evaluation of swallowing" or "endoscopy" is the process of observing structures and function of the swallowing mechanism to include the nasopharynx, oropharynx, and hypopharynx.

(2) "Videofluoroscopic swallowing study" or "videofluoroscopy" is the fluoroscopic recording and videotaping of the anatomy and physiology of the oral cavity, pharynx, and upper esophagus using a variety of bolus consistencies to assess swallowing function. This procedure may also be known as videofluorography, modified barium study, oral-pharyngeal motility study and videoradiography.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

§ 4151. Hand Therapy

(a) Hand therapy services may be performed only when an occupational therapist has demonstrated to the Board that he or she has met the post professional education and training requirements established by this section as follows:

(1) Education: Completion of 45 contact hours in the subjects listed in Code section 2570.3(e).

(2) Training: Completion of 480 hours of supervised on-the-job training, clinical internship or affiliation, which may be paid or voluntary, pertaining to hand therapy.

(b) An occupational therapist providing hand therapy services using physical agent modalities must also comply with the requirements of section 4152. A maximum of 8 contact hours and 60 hours of supervised on-the-job training, clinical internship or affiliation, paid or voluntary, completed under section 4152 will be credited toward the requirements of this section.

(c) An occupational therapist may provide only those hand therapy services he or she is competent to perform.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

§ 4152. Physical Agent Modalities

(a) Physical agent modalities may be used only when an occupational therapist has demonstrated to the Board that he or she has met the post professional education and training requirements established by this section as follows:

(1) Education: Completion of 30 contact hours in the subjects listed in Code section 2570.3(f).

(2) Training: Completion of 240 hours of supervised on-the-job training, clinical internship or affiliation, which may be paid or voluntary, pertaining to physical agent modalities.

(b) An occupational therapist may use only those physical agent modalities he or she is competent to use.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

§ 4152.1 Use of Topical Medications

(a) An occupational therapist who is approved by the Board to perform advanced practices in physical agent modalities may administer topical medications to a patient directly or via iontophoresis or phonophoresis.

(b) As used in this section, "topical medications" means medications applied locally to the skin or underlying tissue where such medications require a prescription or order under federal or state law. The following medications are applicable to the practice of occupational therapy and may be used by an occupational therapist:

- (1) Bacteriocidal agents;
- (2) Debriding agents;
- (3) Topical anesthetic agents;
- (4) Anti-inflammatory agents;
- (5) Antispasmodic agents; and
- (6) Adrenocortico-steroids.

(c) An occupational therapist shall apply or administer topical medications in accordance with this subsection.

(1) Any topical medication applied or administered shall have been ordered on a specific or standing basis by a practitioner legally authorized to order or prescribe such medication pursuant to Business and Professions Code section 2571(a).

(2) An occupational therapist shall follow written protocols in applying or administering topical medications. The protocols shall:

- (A) Be prepared by the facility within which the topical medications are being applied or administered;
- (B) Be approved by the medical director or equivalent of the facility;
- (C) Include a description of each medication, its actions, its indications and contraindications, and the proper procedure and technique for application;
- (D) Require that the administration be consistent with the manufacturer's guidelines for any equipment to be used in the administration of the topical medication; and
- (E) Be based on research and evidence-based practice, pharmaceutical standards of practice and known desired outcomes.

(3) Supervision of the application or administration of topical medications by an occupational therapy assistant under this section shall be in accordance with Article 9.

NOTE: Authority cited: Sections 163.5 and 2570.20, Business and Professions Code. Reference: Section 2571, Business and Professions Code.

§ 4153. Swallowing Assessment, Evaluation, or Intervention

(a) The role of an occupational therapist in instrumental evaluations is to observe structure and function of the swallowing mechanism in order to assess swallowing capability and determine swallowing interventions. The occupational therapist may not perform the physically invasive components of the instrumental evaluation.

(b) Swallowing assessment, evaluation or intervention may be performed only when an occupational therapist has demonstrated to the Board that he or she has met the post professional education and training requirements established by this section as follows:

(1) Education: Completion of 45 contact hours in the following subjects:

- (A) Anatomy, physiology and neurophysiology of the head and neck with focus on the structure and function of the aerodigestive tract;
- (B) The effect of pathology on the structures and functions of the aerodigestive tract including medical interventions and nutritional intake methods used with patients with swallowing problems;
- (C) Interventions used to improve pharyngeal swallowing function.

(2) Training: Completion of 240 hours of supervised on-the-job training, clinical internship or affiliation, which may be paid or voluntary, pertaining to swallowing assessment, evaluation or intervention. An occupational therapist in the process of completing the training requirements of this section may practice swallowing assessment, evaluation or intervention under the supervision of an occupational therapist who has been certified under this article, a speech language pathologist with expertise in this area, or a physician and surgeon.

(c) An occupational therapist may provide only those swallowing assessment, evaluation or intervention services he or she is competent to perform.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

§ 4154. Post Professional Education and Training

(a) Post professional education courses shall be obtained at any of the following:

- (1) College or university degree programs accredited or approved by ACOTE;
- (2) College or university degree programs accredited or approved by the Commission on Accreditation in Physical Therapy Education;
- (3) Colleges or universities with Speech and Hearing Programs accredited or approved by the Council on Academic Accreditation in Audiology and Speech-Language Pathology;
- (4) Any approved provider. To be approved by the Board the provider shall submit the following:
 - (A) A clear statement as to the relevance of the course to the advanced practice area.
 - (B) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) particularly as it relates to the advanced practice area.
 - (C) Information that shows the course instructor's qualifications to teach the content being taught (e.g., his or her education, training, experience, scope of practice, licenses held, and length of experience and expertise in the relevant subject matter), particularly as it relates to the advanced practice area.
 - (D) Information that shows the course provider's qualifications to offer the type of course being offered (e.g., the provider's background, history, experience, and similar courses previously offered by the provider), particularly as it relates to the advanced practice area; or
- (5) A provider that has not been approved by the Board, if the applicant occupational therapist demonstrates that the course content meets the subject matter requirements set forth in sections 2570.3(e) or 2570.3(f) of the Code, or section 4153 of these regulations, and submits the following:
 - (A) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) particularly as it relates to the advanced practice area.
 - (B) Information that shows the course instructor's qualifications to teach the content being taught (e.g., his or her education, training, experience, scope of practice, licenses held, and length of experience and expertise in the relevant subject matter), particularly as it relates to the advanced practice area.

(b) Post professional training shall be supervised and obtained at either of the following:

- (1) Clinical facilities affiliated with such colleges and universities described in subsection (a) or
- (2) Hospital or community based clinical training programs.

(c) Supervised training as it is used in subsection (b) above means, at a minimum:

- (1) The supervisor and occupational therapist have a written agreement outlining the plan of supervision and training in the advanced practice area. The level of supervision is determined by the supervisor whose responsibility it is to ensure that the amount, degree, and pattern of supervision is consistent with the knowledge, skill and ability of the occupational therapist, and appropriate for the complexity of client needs and number of clients for whom the occupational therapist is providing advanced practice services.
- (2) The supervisor is readily available in person or by telecommunication to the occupational therapist while the therapist is providing advanced practice services.
- (d) On or after January 1, 2004, or the date on which these regulations take effect, whichever is first, post professional education and training must be completed within the five years immediately preceding application for certification in the advanced practice area.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

§ 4155. Advanced Practice Certification

In order to provide the advanced practice services set forth in Code section 2570.3(d), an occupational therapist shall apply for and receive certification from the Board.

(a) To apply for certification, an occupational therapist shall submit a written portfolio reflecting the requirements set forth in this article for the advanced practice certification sought.

(b) The portfolio must contain the following:

- (1) Documented proof of attendance and completion of each course.
- (2) Evidence of the number of contact hours completed for each course.
- (3) Outline or syllabus of each course.
- (4) Resume or credentials of each instructor.
- (5) Statement of Learning for each course. Such statement shall reflect what the occupational therapist learned, how that knowledge would be applied in his or her practice, how it changed his or her practice or validated it, and how the occupational therapist became more competent because of the course.
- (6) Verification of completion of supervised on-the-job training, clinical internship or affiliation reflecting the nature of the training and the number of hours. Such verification must be signed by the supervisor(s) under penalty of perjury.

(c) Occupational therapists providing advanced practice services on or before December 31, 2003 may seek certification in any advanced practice by submitting a portfolio that documents education and training substantially equivalent to the requirements of subsections (a) and (b) above. An applicant under this subsection may provide any other information, including experience, relevant to his or her competency to show substantial equivalency with the advanced practice requirements.

(1) An advanced practice application under this subsection must be postmarked no later than six months following the effective date of these regulations.

(2) An applicant under this subsection certified by the Hand Therapy Certification Commission as of December 31, 2003 shall qualify for advanced practice certificates in hand therapy and physical agent modalities.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

Article 7. Continuing Competency Requirements

§ 4160. Definitions

For the purpose of this section:

(a) "Continuing competency" means an ongoing process in which an occupational therapy practitioner maintains the knowledge, skills, and abilities necessary to perform his or her professional responsibilities.

(b) "Continuing education unit (CEU)" is an assigned unit of measure for each professional development activity.

(c) "Professional development activity" means an activity (except participation in a course of study leading to an entry-level academic degree or normal and routine employment responsibilities) engaged in subsequent to professional education, primarily concerned with maintaining and increasing the occupational therapy practitioner's knowledge, skill and ability.

(d) "Professional development unit (PDU)" is an assigned unit of measure for each professional development activity.

(e) "Level II occupational therapy and occupational therapy assistant students" are those participating in the fieldwork requirements of the entry-level academic degree program.

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code. Reference: Section 2570.10, Business and Professions Code.

§ 4161. Continuing Competency

(a) Effective January 1, 2006, each occupational therapy practitioner renewing a license or certificate under Section 2570.10 of the Code shall submit evidence of meeting continuing competency requirements by having completed, during the preceding renewal period, twelve (12) PDUs for each twelve month period, acquired through participation in professional development activities.

(1) Fifty (50) minutes of participation in a professional development activity qualifies for one PDU;

(2) One (1) academic credit equals 10 PDUs;

(3) One (1) Continuing Education Unit (CEU) equals 10 PDUs.

(b) Professional development activities acceptable to the board include, but are not limited to, programs or activities sponsored by the American Occupational Therapy Association (AOTA) or the Occupational Therapy Association of California; post-professional coursework completed through any approved or accredited educational institution that is not part of a course of study leading to an academic degree; or otherwise meet all of the following criteria:

(1) The program or activity contributes directly to professional knowledge, skill, and ability;

(2) The program or activity relates directly to the practice of occupational therapy; and

(3) The program or activity must be objectively measurable in terms of the hours involved.

(c) PDUs may also be obtained through any or a combination of the following:

(1) Involvement in structured special interest or study groups with a minimum of three (3) participants. Three (3) hours of participation equals one (1) PDU.

(2) Structured mentoring with an individual skilled in a particular area. For each 20 hours of being mentored, the practitioner will receive three (3) PDUs.

(3) Structured mentoring of a colleague to improve his/her skills. Twenty (20) hours of mentoring equals three (3) PDUs.

(4) Supervising the fieldwork of Level II occupational therapy and occupational therapy assistant students. For each 240 hours of supervision, the practitioner will receive two (2) PDUs.

(5) Publication of an article in a non-peer reviewed publication. Each article equals five (5) PDUs.

(6) Publication of an article in a peer-reviewed professional publication. Each article equals 10 PDUs.

(7) Publication of chapter(s) in occupational therapy or related professional textbook. Each chapter equals 10 PDUs.

(8) Making first time professional presentations at workshops, seminars and conferences. For each hour, the practitioner will receive two (2) PDUs.

(d) Partial credit will not be given for the professional development activities listed in subsection (c).

(e) This section shall not apply to the first license or certificate renewal following issuance of the initial license or certificate.

(f) Of the total number of PDUs required for each renewal period, a minimum of one half of the units must be directly related to the delivery of occupational therapy services.

(1) The delivery of occupational therapy services may include: models, theories or frameworks that relate to client/patient care in preventing or minimizing impairment, enabling function within the person/environment or community context. Other activities may include, but are not limited to, occupation based theory assessment/interview techniques, intervention strategies, and community/environment as related to one's practice.

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code. Reference: Section 2570.10, Business and Professions Code.

§ 4162. Completion and Reporting Requirements

(a) The occupational therapy practitioner shall record the following information for each activity on the renewal form:

(1) the date each course or activity was completed;

(2) the provider, course number, and course title, if applicable;

(3) a description of the course; and

(4) the total number of PDUs.

(b) Records showing participation in each professional development activity must be maintained by the occupational therapy practitioner for four (4) years following the renewal period.

(c) A maximum of three (3) PDUs in excess of the required 12 PDUs may be carried over to the next renewal period for those practitioners renewing after one year. A maximum of six (6) PDUs in excess of the required 24 PDUs may be carried over to the next renewal period for those practitioners renewing after two years.

(d) Any occupational therapy practitioner who is unable to provide records documenting completion of the continuing competency requirements is subject to citation and/or administrative fine or disciplinary action.

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code. Reference: Section 2570.10, Business and Professions Code.

§ 4163. Exemption from Continued Competency Requirements

At the time of applying for renewal of a license or certificate, an occupational therapy practitioner may request an exemption from the continuing competency requirements. The renewal application must provide the following information:

(a) Evidence that during the renewal period prior to the expiration of the license or certificate, the practitioner was residing in another country for one year or longer, reasonably preventing completion of the continuing competency requirements; or

(b) Evidence that the practitioner was absent from California because of military service for a period of one year or longer during the renewal period, preventing completion of the continuing competency requirements; or

(c) Evidence that the practitioner should be exempt from the continuing competency requirements for reasons of health or other good cause which include:

(1) Total physical and/or mental disability for one (1) year or more during the renewal period and the inability to work during this period has been verified by a licensed physician or surgeon or licensed clinical psychologist; or

(2) Total physical and/or mental disability for one (1) year or longer of an immediate family member for whom the practitioner had total responsibility, as verified by a licensed physician or surgeon or licensed clinical psychologist.

Note: Authority cited: Sections 2570.10 and 2570.20, Business and Professions Code. Reference: Sections 2570.10 and 2570.11, Business and Professions Code.

Article 8. Ethical Standards of Practice

§ 4170. Ethical Standards of Practice

A violation of any ethical standard of practice constitutes grounds for disciplinary action. Every person who holds a license, certificate or limited permit issued by the board shall comply with the following ethical standards of practice:

(a) Occupational therapy practitioners shall comply with state and federal laws pertaining to discrimination.

(b) Occupational therapy practitioners shall take reasonable precautions to avoid imposing or inflicting harm upon the client or to his or her property.

- (1) Occupational therapy practitioners shall not exploit clients in any manner.
 - (2) Occupational therapy practitioners shall avoid relationships or activities that interfere with professional judgment and objectivity.
 - (c) Occupational therapy practitioners shall collaborate with clients, caretakers or other legal guardians in setting goals and priorities throughout the intervention process.
 - (1) Occupational therapy practitioners shall fully inform the client of the nature, risks, and potential outcomes of any interventions.
 - (2) Occupational therapy practitioners shall obtain informed consent from clients involved in research activities and indicate in the medical record that they have fully informed the client of potential risks and outcomes.
 - (3) Occupational therapy practitioners shall respect the client's right to refuse professional services or involvement in research or educational activities.
 - (4) Occupational therapy practitioners shall maintain patient confidentiality unless otherwise mandated by local, state or federal regulations.
 - (d) Occupational therapy practitioners shall perform occupational therapy services only when they are qualified by education, training, and experience to do so.
 - (1) Occupational therapy practitioners shall hold the appropriate credentials for the services they provide.
 - (2) Occupational therapy practitioners shall refer to or consult with other service providers whenever such a referral or consultation is necessary for the care of the client. Such referral or consultation should be done in collaboration with the client.
 - (e) Occupational therapy practitioners shall comply with the Occupational Therapy Practice Act, the California Code of Regulations, and all other related local, state, and federal laws.
 - (f) Occupational therapy practitioners shall provide accurate information about occupational therapy services.
 - (1) Occupational therapy practitioners shall accurately represent their credentials, qualifications, education, experience, training, and competence.
 - (2) Occupational therapy practitioners shall disclose any professional, personal, financial, business, or volunteer affiliations that may pose a conflict of interest to those with whom they may establish a professional, contractual, or other working relationship.
 - (3) Occupational therapy practitioners shall refrain from using or participating in the use of any form of communication that contains false, fraudulent, deceptive statements or claims.
 - (g) Occupational therapy practitioners shall report to the Board unprofessional conduct as defined in Section 2570.28 of the Occupational Therapy Practice Act.
- Note: Authority Cited: Business and Professions Code section 2570.20. Reference: Business and Professions Code section 2570.20.

Article 9. Supervision of Occupational Therapy Assistants, Limited Permit Holders, Students, and Aides

§ 4180. Definitions

In addition to the definitions found in Business and Professions Code sections 2570.2 and 2570.3 the following terms are used and defined herein:

- (a) "Client related tasks" means tasks performed as part of occupational therapy services rendered directly to the client.
- (b) "Level I student" means an occupational therapy or occupational therapy assistant student participating in activities designed to introduce him or her to fieldwork experiences and develop an understanding of the needs of clients.
- (c) "Level II student" means an occupational therapy or occupational therapy assistant student participating in delivering occupational therapy services to clients with the goal of developing competent, entry-level practitioners.
- (d) "Non-client related tasks" means clerical, secretarial and administrative activities; transportation of patients/clients; preparation or maintenance of treatment equipment and work area; taking care of patient/client personal needs during treatments; and assisting in the construction of adaptive equipment and splints.
- (e) "Periodic" means at least once every 30 days.

Note: Authority cited: Sections 2570.13 and 2570.20, Business and Professions Code. Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

§ 4181. Supervision Parameters

- (a) Appropriate supervision of an occupational therapy assistant includes, at a minimum:
 - (1) The weekly review and inspection of all aspects of occupational therapy services by the supervising occupational therapist.

(2) Documentation of the supervision process shall include documentation of the client's care or co-signature by the supervising occupational therapist of the occupational therapy assistant's documentation.

(3) The supervising occupational therapist shall be readily available in person or by telecommunication to the occupational therapy assistant at all times while the occupational therapy assistant is providing occupational therapy services. The supervising occupational therapist shall provide periodic on-site supervision and observation of the assigned client care rendered by the occupational therapy assistant.

(b) The supervising occupational therapist shall at all times be responsible for all occupational therapy services provided by an occupational therapy assistant, a limited permit holder, a student or an aide. The supervising occupational therapist has continuing responsibility to follow the progress of each client, provide direct care to the client, and assure that the occupational therapy assistant, limited permit holder, student or aide do not function autonomously.

(c) The level of supervision for all personnel is determined by the supervising occupational therapist whose responsibility it is to ensure that the amount, degree, and pattern of supervision are consistent with the knowledge, skill and ability of the person being supervised.

(d) Occupational therapy assistants may supervise:

(1) Level I occupational therapy students;

(2) Level I and Level II occupational therapy assistant students; and

(3) Aides providing non-client related tasks.

(e) The supervising occupational therapist shall determine that the occupational therapy assistant or limited permit holder possesses a current certificate or permit to practice occupational therapy prior to allowing the person to provide occupational therapy services.

Note: Authority cited: Sections 2570.13 and 2570.20, Business and Professions Code. Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

§ 4182. Treatments Performed by Occupational Therapy Assistants

(a) The supervising occupational therapist shall determine the occupational therapy treatments the occupational therapy assistant may perform. In making this determination, the supervising occupational therapist shall consider the following:

(1) the clinical complexity of the patient/client;

(2) skill level of the occupational therapy assistant in the treatment technique; and

(3) whether continual reassessment of the patient/client status is needed during treatment. This rule shall not preclude the occupational therapy assistant from responding to acute changes in the client's condition that warrant immediate action. The occupational therapy assistant shall inform the supervising occupational therapist immediately of the acute changes in the patient's/client's condition and the action taken.

(b) The supervising occupational therapist shall assume responsibility for the following activities regardless of the setting in which the services are provided:

(1) Interpretation of referrals or prescriptions for occupational therapy services.

(2) Interpretation and analysis for evaluation purposes.

(A) The occupational therapy assistant may contribute to the evaluation process by gathering data, administering standardized tests and reporting observations. The occupational therapy assistant may not evaluate independently or initiate treatment before the supervising occupational therapist performs an assessment/evaluation.

(3) Development, interpretation, implementation, and modifications of the treatment plan and the discharge plan.

(A) The supervising occupational therapist shall be responsible for delegating the appropriate interventions to the occupational therapy assistant.

(B) The occupational therapy assistant may contribute to the preparation, implementation and documentation of the treatment and discharge summary.

Note: Authority: Sections 2570.13 and 2570.20, Business and Professions Code. Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

§ 4183. Treatments Performed by Occupational Therapy Limited Permit Holders and Students

(a) Consistent with Code section 2570.4, subdivisions (b) and (c), a Level II student may, at the discretion of the supervising occupational therapy practitioner, be assigned duties or functions commensurate with his or her education and training.

(b) All documented client-related services by the limited permit holder or student shall be reviewed and cosigned by the supervising occupational therapist.

Note: Authority: Sections 2570.13 and 2570.20, Business and Professions Code. Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

§ 4184. Delegation of Tasks to Aides

(a) The primary function of an aide in an occupational therapy setting is to perform routine tasks related to occupational therapy services. Non-client related tasks may be delegated to an aide when the supervising occupational therapy practitioner has determined that the person has been appropriately trained and has supportive documentation for the performance of the services.

(b) Client related tasks that may be delegated to an aide include specifically selected routine aspects of an intervention session. In addition to the requirements of Code section 2570.2, subdivisions (a) and (b), the following factors must be present when an occupational therapist delegates a selected aspect of an intervention to an aide:

(1) The outcome anticipated for the aspects of the intervention session being delegated is predictable.

(2) The situation of the client and the environment is stable and will not require that judgment or adaptations be made by the aide.

(3) The client has demonstrated previous performance ability in executing the task.

(4) The aide has demonstrated competence in the task, routine and process.

(c) The supervising occupational therapist shall not delegate to an aide the following tasks:

(1) Performance of occupational therapy evaluative procedures;

(2) Initiation, planning, adjustment, or modification of treatment procedures.

(3) Acting on behalf of the occupational therapist in any matter related to occupational therapy treatment that requires decision making.

(d) All documented client related services shall be reviewed and cosigned by the supervising occupational therapist.

Note: Authority: Sections 2570.13 and 2570.20, Business and Professions Code. Reference: Sections 2570.2, 2570.4 and 2570.13, Business and Professions Code.